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## Article

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## Tax measures promoting cooperatives: a fiscal driver in the context of the sustainable development agenda



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### ABSTRACT

The social economy (SE) is becoming increasingly present in the Spanish business network. Its special characteristics make it attractive for the development of economic activities, since they are respectful of the environment and they promote the creation of stable and quality employment, even in economically degraded areas or for groups with labour market integration problems. These characteristics, moreover, are particularly important for the consolidation of a new business network that combines economic growth and sustainability, in the context of the commitments undertaken in the 2030 Agenda for the Sustainable Development Goals (SDGs).

Cooperatives are the most common SE business model, to the extent that their study comprises an important part of the Spanish economy. The peculiarities of this legal formula, the aids for its constitution and their tax benefits provide important incentives for the constitution of such entities. The aim of this paper is to study the fiscal framework of cooperatives in Spain within the European framework, to determine the extent to which it favours the development of this business model and to identify the bases for improvement that can foster this entrepreneurial model. The analysis of the fiscal data available confirms that the tax advantages for cooperatives, as well as the need to update fiscal policies to the current economic context, have diluted over time. Finally, the need to extend to cooperatives some of the tax benefits designed for other business models is pointed out.

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### 1. Introduction

The prevalence of the capitalist model and its extension through globalization has generated important negative effects and imbalances that traditional business structures have not been able to reverse (Bretos & Marcuello, 2017). These impacts are a priority through the Sustainable Development Goals (SDGs), aimed at promoting a new model of economic growth that combines growth with sustainability and which contributes in turn to the reduction of inequality between territories. In this context, the special suitability of the social economy (SE) as a vehicle for the accomplishment of SDGs has recently been highlighted (Bastida, Vaquero, & Cancelo, 2020; Mozas, 2019). In particular, previous research has stressed the role of SE organizations in generating wealth and employment in the territory in which they are established, as well as in facilitating access to economic activity and services by citizenship, which

results in the reduction of inequalities (Bastida, Vaquero, Cancelo, & Oliveira, 2020; Bel, 2005; Clemente, Díaz, & Marcuello, 2009; Coll & Cuñat, 2007; Poyatos & Gámez, 2009; Tarazona & Albors, 2005).

Cooperatives, together with sheltered employment centres and social integration enterprises, are at the heart of the SE in Spain (Chaves & Monzón, 2012; Chaves-Avila & Savall-Morera, 2019). These organizations play a prominent role both in terms of their volume of activity and the jobs they generate. Additionally, they seem particularly suitable for responding to the demand for new economic activities within a framework of sustainability, mainly focused on values and being specially aligned with the SDGs (Juliá, Meliá, & Miranda, 2020; Mozas, 2019; Pérez-Sanz, Gargallo-Castel, & Esteban-Salvador, 2019; Stiglitz, 2009). According to this approach, cooperatives prioritize social benefits for their members over other outcomes (Wilkinson & Quarter, 1996; Zeuli, Freshwater, Markley, & Barkley, 2004). These companies are deeply rooted in the territory in which they are located, where they improve employment and use endogenous resources. Moreover, people who work in them also live in this location (Gertler, 2004). Thus, cooperatives circumscribe their activity in these territories, mobilizing and reinvesting resources, which discourages the delo-

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calization of their activities (Chaves & Monzón, 2012). In these areas, they generate high-quality employment with a better income distribution among their members (Bretos & Marcuello, 2017; Canalda Criado, 2019). Moreover, cooperatives favour local growth based on endogenous development specially rooted in human capital, since these organizations are not usually intensive in terms of physical capital, but they are so in regard to labour demand. Likewise, cooperatives promote the local entrepreneurial vocation, especially through self-employment, allowing the reconversion of an entity that goes through serious economic difficulties in this business model. Also, employment opportunities make it possible to fix the population in the territory and allow the creation of welfare and employment of a stable nature (Pérez & Valiente, 2019; Valiente, 2019).

On the other hand, another group of studies has highlighted that the values and principles governing cooperatives determine the establishment of confidence-based relationships that constitute a competitive advantage for cooperatives (Cabaleiro, Iglesias, & Martínez, 2019; Novkovic, 2008; Spear, 2000; Valentinov, 2004). At the same time, these organizations show more stable behaviour, which puts them in a better position to withstand economic crises (Stiglitz, 2009). In particular, previous studies have found that cooperatives can grow and create employment during these periods, demonstrating a counter-cyclical behaviour (Birchall & Ketilson, 2009; Fakhfakh, Pertotin, & Gago, 2012; Perotin, 2006). The preference for adjusting through wage arrangements rather than through employment ones seems to underlie this behaviour.

Despite these prominent advantages, the analysis of how the creation of these entities can be encouraged has been underestimated. In this paper, we address this gap by focusing on the role that tax incentives play in the creation of cooperatives, given that the economic literature highlights the important role of tax policy in the creation and development of enterprises, even within the same territorial framework (Bergmann, 2011). We assume that cooperatives have a differential fiscal treatment that seeks to protect entities where the distribution of profits is not conditioned by the ownership of the means of production (Merino, 2017). Despite this apparently advantageous treatment, there is room for improvement from a fiscal perspective approach in order to increase the attractiveness of this business model, whose growth and expansion will make it possible to advance towards a strategic model for sustainable economic development in line with social and territorial cohesion.

Accordingly, this research focuses on the fiscal opportunities that might favour the choice of this business model. To do this, we study the main indicators contributed by the Spanish State Tax Administration Agency. We focus on information related to cooperatives from 2006 to 2017, mainly regarding their contribution to corporate tax. This allows us to provide a detailed overview of their fiscal treatment, as well as to estimate the effects of the tax advantages conferred on cooperatives. Several factors justify the interest and timeliness of this investigation. Firstly, as fiscal policy is the only public action with some autonomy at the national level, it can be considered a potential tool to improve the economic conditions of cooperatives. Secondly, Spain is a country where cooperatives have been traditionally supported by governments, and they have proved to be an excellent model of entrepreneurship capable of maintaining employment in recession situations. Thirdly, the application of tax measures aimed at favouring the development of cooperatives has been considered feasible by some European institutions – namely the European Commission and the Court of Justice of the EU – to implement public actions based on subsidies, which have been strongly questioned from the Community's point of view because they are supposed to restrict freedom of competition (Martín, 2006; Serrano, 2011; Soler, 2006). Finally, this article focuses on the need to align economic to social effi-

ciency. Thus, we note that by strengthening the fiscal framework for cooperatives it is possible to lay the foundations for sustainable economic development. This is in line with the new demands of citizenship but also underlies the foundations of public policies since tax benefits will improve collective welfare.

## 2. The cooperative tax framework: an overview

Cooperatives are given special fiscal treatment, both in Spain and in several EU countries, as well as other SE entities (Monzón & Chaves, 2017; Navarro, 2014). Several provisions justify this differential framework, starting from Regulation (EC) No, 1453/2003 of the Council of 18 August 2003 on the Statute for a European Cooperative Society. This provision argues that the differences between cooperatives and other business models justify a differential tax treatment, provided that this does not imply a source of unfair competition. For its part, the European Economic and Social Council (EESC) drew up its opinion on the various types of business organizations on 1 December 2009, supporting this approach. Indeed, in 2011, the CJUE established that this specific treatment is due to the fact that SE organizations, including cooperatives, are different from profit-making entities. This special tax protection of cooperatives should not be understood as a privilege vis-à-vis other entities operating in open markets, but rather seen as the desire of the legislator to strengthen entrepreneurial organizations.

Nevertheless, the aids granted to cooperatives are different among EU countries. In this regard, Article 87.1 of the Treaty establishing the European Community states that all aid granted by states or through state funds will be incompatible with the common market, whereas it might affect trade between the member states and distort competition by favouring certain kinds of organizations. In a similar vein, the Court of Justice of the European Union (CJEU) in its judgment of 9 June 2011 noted that tax exemptions such as those granted to cooperatives will be labelled as state aid only when they comply with all the requirements for the application of that provision. Therefore, the tax scheme for cooperatives must be considered a specific tax relief rather than a state aid. This aid would be incompatible with the market whenever it: (i) involved transference of state resources; (ii) benefited the recipient with economic advantage; (iii) had a selective character; and (iv) affected competition and trade. As can be seen, these points are a key element in enabling tax benefits to be used to promote cooperatives, since this public aid is not limited and is not under question, as can be the case with state aid according to the precedent jurisprudence.

In order to make international comparisons of the different frameworks of support for cooperatives, it is imperative to differentiate between adjustment rules in the CIT and tax incentives (Romero, 2010). In terms of adjustment rules, it should be noted that the interest paid to members of cooperatives is considered a deductible expense when adjusted to the market price, although their remuneration is usually limited in some countries (Spain, Italy, France and Portugal). As regards income tax, this is considered a return on capital for the member concerned. Moreover, this remuneration is usually limited. Transactions with third parties receive similar treatment, but it should be noted that they are not allowed in Germany, the United Kingdom, Spain, Italy, France and Portugal, with certain exceptions. Furthermore, undistributable and solidary reserves with tax reductions are common in Spain, Italy and Portugal, albeit rather limited. In other countries, such as France, Germany and Holland, these allocations are not considered. In Finland and Denmark, there is no special treatment in this area, but distribution of these funds among members is allowed when the cooperative is wound up. Transactions with non-members are usually allowed, but with significant limitations, not exceeding 50%. If this threshold is exceeded, all tax benefits may be lost. Moreover,

the tax rate to be applied is often the general rate. In Spain, there is a quota bonus for specially protected cooperatives. In France and Portugal, it is possible to exempt certain types of cooperatives completely from taxation. Table 1<sup>1</sup> summarizes the tax treatment for cooperatives in some EU countries.

As can be seen from this information, there are two levels in the tax treatment of cooperatives. A first group would be comprised of Mediterranean countries (Spain, Portugal, Italy, France) and a second group mainly of central European countries (United Kingdom, Germany, Austria, Belgium, the Netherlands) and Nordic ones (Denmark and Finland). Tax advantages for cooperatives are greater in the first group than in the second one. However, it is not possible to rank the tax treatment of cooperatives by country, since the tax benefits are very superficial as taxable income is more important than tax rates.

In light of the above, it can be argued that the differential treatment granted to cooperatives in Spain does not involve unequal treatment that contravenes EU competition law. Echoing this view, previous research has stressed the role of the Spanish specific taxation for cooperatives as a driver of the SE in this country. In this context, Chaves (2002); Chaves and Demoustier (2013), and Chaves and Monzon (2018) proposed a theoretical framework that identifies two groups of public policies aimed at promoting the SE: soft policies and hard policies. The first group concerns those policies that establish a favourable ecosystem for the emergence and development of SE entities, while the second one includes government interventions focused on their economic activity. Soft policies may, in turn, be subdivided into two groups: institutional policies, aimed at institutionalizing the SE within the legal and economic system; and cognitive policies, designed to increase awareness, research and training on the SE. Under this classification, the specific taxation for cooperatives should be labelled as an institutional soft policy.

Despite their important socio-economic role, tax policies aimed at favouring the emergence of cooperatives have not been sufficiently explored in Spain. Previous research on this issue has been mainly focused on describing the tax benefits for these organizations, most of them following changes in tax rules and focusing on their impact (Montero, 2011; Navarro, 2014; Ordoñez, 2006; Polanco, 2004; Romero, 2010; Tejerizo, 2008). Fiscal authorities seem to share this omission, since in the Report of the Commission of Experts for the Reform of the Spanish Tax System (2004) there is hardly any reference to the taxation of cooperatives, beyond indicating the impact of a potential reduction of the corporate tax rates. In this country, responsibility for the design and implementation of policies aimed at improving economic development has been transferred to sub-central governments (AACC). Therefore, the starting point for analysing the tax regulations for cooperatives is twofold. On the one hand, we must consider the national laws governing the framework for the activities of cooperatives. On the other hand, the tax specialities of such entities should be highlighted. As regards the former, Article 129.2 of the Spanish Constitution (SC) states the obligation to effectively promote businesses' participation in general and cooperatives in particular. This article also emphasizes the need to favour the access of working persons to ownership of the means of production. On the basis of this precept, this concept has been widely spread in the various AACCs Statutes of Autonomy, which have been adopting and amending successive regional laws regulating cooperatives in each territory. Accordingly, all the AACCs, apart from the Canary Islands, have their own legal provisions in this area. This extensive legislation is in line with the EU's

mandate to protect the phenomenon of cooperatives. Table 2 shows the peculiarities of Spanish legislation.

An analysis of these rules aims to conclude that the tax advantages granted to cooperatives in Spain are based on a number of principles: (i) the promotion of cooperatives due to their social function, their activities and intrinsic characteristics; (ii) coordination with other rules, especially with the general tax regime for legal persons; (iii) explicit recognition of the essential principles of cooperatives; and (iv) their consideration as a default rule to the general tax regime for legal persons. To this end, the LTRC is based on two kinds of rules: (i) incentives, through the application of tax benefits based on the social work of cooperatives; and (ii) technical standards, which adapt the characteristics of cooperatives to tax regulations. As a result of both elements, two levels of protection are established in the application of tax benefits affecting cooperatives: protected cooperatives and specially protected cooperatives. For tax purposes, therefore, there are two types of cooperatives: those that have tax advantages (protected cooperatives) and those that enjoy tax advantages extended to protected cooperatives (specially protected cooperatives) (Aguilar, 2017). In spite of this dual categorization, there is an implicit third category: unprotected cooperatives, namely those that do not accomplish the requirements, or they prefer not to apply them. In this case, they are under the scope of the general fiscal framework (CIT), but they must allocate both the Mandatory Reserve (MR) and the Apprenticeship and Training Reserve (ATR).

Protected cooperative societies<sup>2</sup> are those that comply with the provisions of Law 27/1999 of 16 July 1999 on cooperatives or with the autonomous laws of the AACC with competence in this area. Moreover, these cooperatives must not incur any of the causes provided for in Article 13 of the LTRC on the loss of tax-protected cooperative status.<sup>3</sup> For their part, specially protected cooperatives (which can be of first or second degree<sup>4</sup>) relate to work-associated cooperatives, agricultural cooperatives, community land cooperatives, sea cooperatives, and consumer and user cooperatives, provided that they meet certain conditions included in Articles 9–12 of the LTRC. Finally, it should be noted that the provided tax exemptions and rebates will apply to protected cooperatives and, where appropriate, to specially protected cooperatives. The application of the general tax regime will be determined by the concurrence of some of the circumstances identified as causes of loss of status of the fiscally protected cooperative. As shown in Figs. 1 and 2, the procedure for winding up the general corporate tax system

<sup>2</sup> First-degree cooperatives are of different types: associated work, consumers and users of housing, agri-food, community-based land use, services, sea, transport, insurance, health, education and credit. Unlike second-tier cooperatives (consisting solely of other cooperatives, that is, legal entities), first-tier cooperatives may consist of natural or legal persons.

<sup>3</sup> The causes that determine the loss of status of a fiscally protected cooperative are: failure to make the compulsory allocations to the Mandatory Reserve (MR) and the Apprenticeship and Training Reserve (ATR) distribution of the compulsory Reserve Funds to the members; the use of the ATR for a different purpose; failure to comply with the rules determining the destination of profit or loss; compensating the members above the maximum authorized interest rate; if the social returns are paid to the members in a different proportion from those corresponding to them; non-imputation of losses for the financial year or misappropriation; if the capital injections exceed the permitted legal limits; participation of the cooperative in the share capital of non-cooperative entities exceeding 10%; carrying out cooperative operations with non-members; carrying out cooperative operations with non-member third parties if not permitted by law; having more salaried employees than the authorized number; having a minimum number of members below the statutory number; reduction of share capital to below the legal minimum; cessation of cooperative activity for two years without justified cause; manifest inability to carry out the activity; and no external audit if mandatory.

<sup>4</sup> Second-degree cooperatives are cooperatives whose members are other cooperatives. In second-degree cooperatives, the members are only legal persons. In first-degree cooperatives the members are physical or legal persons.

<sup>1</sup> Tables and figures are available at Complementary Resources section.

is different from that applicable to cooperatives that are protected and specially protected.

On the basis of this information, it can be argued that there are significant differences between the general scheme and the special scheme for fiscally protected cooperatives. First, the baseline data are different. Thus, for cooperatives, the calculation of the tax base requires the determination of both cooperative and non-cooperative results. The former is obtained from the difference between the incomes and the deductible expenses related to the activity, including in this category those derived from the operations carried out by the partners as a consequence of the social purpose (e.g., income from the exercise of the activity, quotas, subsidies, interest or financial income). The latter are yields from economic activities or sources outside the specific purposes of the cooperative, together with increases and decreases in assets. Second, this operation ultimately means a double fragmentation of the tax base: one for cooperative and another one for non-cooperative results. For the calculation of the taxable base for each result, it should be reduced by 50% of the portion of the taxable amount allocated to the MR. Third, once the adjustments to the accounting result for CIT have been completed, the MR must be endowed with a minimum allocation from the cooperative and extra-cooperative result (variables per AACC) to determine the pre-tax base for cooperatives, after the losses from past periods and before income tax have been deducted. In addition, all cooperatives must provide the ATR, at an amount not less than a certain percentage (also variable depending on the AACC). This fund must be applied to those activities that benefit their members, workers and, in some cases, the community. In addition, and unlike the general corporate tax system, the applicable tax rate will be applied to the tax base, regardless of whether the sign is positive or negative. Moreover, and since there are two taxable bases in cooperatives, the entire contribution will be the result of aggregating two amounts: the tax base for cooperative income by type and the taxable amount for non-cooperative income by type. Finally, there are also significant differences in the compensation procedure between the general scheme and for cooperatives. In the first case, it is possible to offset negative tax bases from previous years without a time limit, in the second case it is over quota.

The analysis of the differences identified in the winding-up procedure of the CIT allows certain tax advantages for cooperative societies to be identified, at least potentially. These incentives differ depending on the degree of protection that cooperatives can enjoy (tax benefits recognized for protected cooperatives and those for specially protected cooperatives). Table 3 shows the main tax incentives applicable to protected cooperatives regarding CIT, for which, as noted above, all cooperatives should be taxed except those that are included in a different modality. Specially protected cooperatives, which include those whose activity is related to the coverage of the basic needs of the population – farms, fisheries or workers' or consumers' cooperatives, among others – have additional tax benefits for the cooperatives simply protected, as can be seen in Table 4. These additional tax advantages seem to be justified by the particular limitations that these companies might have. For example, that is the case for work-associated cooperatives, where the possibility of employing wage earners is severely restricted. In the same vein, the possibility of exploiting products outside the cooperative is limited in the exploitation of fisheries or agricultural resources.

To sum up, the Spanish cooperatives present several tax advantages, from a theoretical point of view, which are pointed out below:

- The tax compensation for the cooperatives is produced in the quota (and not on a taxable basis as in the general scheme). Fiscally protected cooperatives have the opportunity to apply a 50%

bonus on the gross tax quota if the result is positive, an amount of up to 80% for priority agricultural holdings and up to 90% for work-associated cooperatives. This is undoubtedly a clear tax advantage for such entities.

- The tax advantage of the MR should be highlighted since this allocation – which translates into a tax-deductible expenditure – makes it possible to improve the economic and financial situation of the cooperative through this fiscal instrument. The MR, then, should be considered as a means of self-financing, which enables the cooperative to expand its activities and to consolidate them, thus facilitating the incorporation of new members.
- The compulsory nature of the MR means that these funds are detracted from taxes that must be satisfied to the Public Treasury. Under these circumstances, this fund can be understood as a public action that seeks to promote cooperative development. This approach, together with the fact that these amounts cannot be distributed to the cooperative members, highlights the role of the MR in enhancing cooperatives. Moreover, it cannot be ignored that cooperatives are variable-capital entities, and therefore the existence and size of the MR provides a clear guarantee for third parties. In a similar vein, if the contributions to the cooperative are reduced due to a partner exit, a problem of share capital might arise. However, since the MR cannot be distributed, this is synonymous with a clear patrimonial guarantee (Rodrigo, 2010). Like the MR, the ATR may not be distributed among the members even if the cooperative is wound up. This reinforces this guarantee.
- As regards the ATR, it should be noted that its allocation represents an expense for the cooperative. Therefore, it is a provision, and consequently an expense, that reduces the net return on the cooperative. This results in a substantial tax reduction, as with any other tax-deductible expense. However, the obligatory nature of this action should be highlighted, since this characteristic may limit the autonomy of the cooperative.

### 3. A quantitative approximation of tax rules for cooperatives in Spain

When assessing the impact of taxation on cooperatives, it is necessary to present the main effects of the tax rules on cooperatives. To this end, we use the information published by the *Agencia Estatal de Administración Tributaria* (State Tax Administration Agency), the official agency of the tax authorities within the Ministry of Finance. We focus on the annual corporate tax accounts from 2006 to 2017 due to the need for complete and homogeneous information. Although some annual reports are available before 2006, there is a lack of disaggregated information, so we choose 2006 to start the analysis. The year 2017 is the last year for which data are available. This period is long enough to obtain results and allows us to gather information on the economic crisis and subsequent recovery of the Spanish economy.

Figure 3 shows the trend in the number of cooperatives and their distribution by tax results in this period. During these 12 years, almost 5000 cooperative societies disappeared, a reduction of slightly more than 15%. A more detailed analysis reveals the impact of the business cycle on these types of societies: between 2006 and 2016 there was a continuous decrease in the total number of cooperatives, which was interrupted in 2017, with a slight increase of close to 28,000 cooperatives. Apparently, the improvement in the economic situation since 2014 is not reflected in the number of entities presenting the fiscal year in the CIT. This may be due to the unattractiveness of these organizations, an issue that could be improved if there were greater tax advantages. The analysis of the number of companies with positive accounting results comes to different conclusions. In this case, recovery begins to be detected in 2012, after which the percentage of companies with

positive accounting results begins to recover, reaching 42.7% in 2017. However, this percentage is still six percentage points below the relative balance recorded in 2012 (48.6%). The evolution of the number of cooperatives with a positive taxable base shows similar results, recovering from 36.4% in the financial year 2012 to 40.4% in 2017.

The relationship between the number of entities with an impossible positive basis and the positive accounting result allows us to estimate the impact of tax adjustments on the CIT for cooperatives. This ratio establishes a qualitative indicator of the effects of the tax on the accounts of cooperatives so that the closer it is to the unit, the greater the concordance between the fiscal and accounting criteria in the case of a positive amount. It should be noted that there are two reasons for the differences between the two indicators: first, the tax adjustments produced and the allocations to the MR; second, unlike the general scheme, the negative tax bases of previous years are not taken into account. On this point, it should be recalled that the compensation for cooperatives is based on the previous full quota, not on the previous tax base. Although the fiscal adjustment is minimal in the first few years, since the economic crisis and during the current stage of economic growth, the qualitative adjustment has been increasing. Thus, taking 2017 as a benchmark, 5.3% of cooperatives in Spain have gone from having a positive accounting result to a negative tax base, hence the relevance of off-balance adjustments for cooperatives. Further to the tax analysis, Figure 4 provides a summary of the evolution of the taxable base, gross tax quota and net tax quota in millions of euros for the period under consideration. Once again, the taxable base decreased from €869 million in 2006 to €463 million in 2012 and increased from this year to €779 million at the end of the period (€90 million less than in 2006).

The results in terms of the gross tax quota are those expected from the behaviour of the taxable base and can be mainly linked to the reduction of the tax rates applicable to non-cooperative results (we will return to this issue later). The tax reforms in the CIT have just led to the lowering of CIT rates for all taxable companies from 35% to 25%, but this only affects cooperatives, in terms of extra-cooperative results. In comparative terms, CIT rates fell less for cooperatives. In 2017, the total contribution obtained reached €128 million, an amount that represents 63.1% of that in 2006. As for the net tax quota, the differences between 2006 and 2017 are smaller, since they represent 68.2% of the maximum in the series. This puts a crucial issue on the table: the applicable amount of cooperative deductions and bonuses in the CIT gradually reduced from €77 million in 2006 to €42 million in 2017. In fact, the ratio of the gross tax quota to the net tax quota, which allows us to determine the effect of the deductions and bonuses, in 2017 (67.2%) was slightly lower than in the year of the start of the recovery from the economic crisis (2012, at 67.7%). This seems to respond to changes in the CIT, which reduced deductions and bonuses for all kinds of enterprises at this stage, including cooperatives. This issue should make us reflect on the current goodness of the tax policy for cooperatives.

The tax analysis is supplemented by Figure 5, which shows the evolution of the full tax rate and effective tax rate. The former is obtained by dividing the gross tax rate by the taxable base, and the latter through the quotient between the net tax rate and the taxable base. When analysing the results, we must take into account the regulatory changes in the tax rate and, secondly, we should bear in mind that this is an aggregate rate that includes both fiscally protected cooperatives and credit cooperatives and also adds cooperative and non-cooperative results. Furthermore, it should be noted that when studying the taxation of cooperatives, the most important difference between the integrated quota and liquidation is the 50% bonus of the fiscally protected cooperatives. Therefore, depending on how their results evolve and the relative weight of

the results, the deductions will be higher or lower. This means that if protected or unprotected cooperatives gain weight, the percentage of deductions or bonuses decreases in the entire quota. However, this result cannot be fully ensured given the limitations we have with the available data.

In light of these warnings, the data show a decrease in the full tax rate from 23.4% in 2006 to 16.4% in 2017. This may be due to the fact that the statistics collected include very different subjects for the purposes of the CIT – cooperatives that are particularly protected, cooperatives that are protected, cooperatives that are not protected – and therefore the evolution of the relative weight of each of them is conditioned by the average ratios, with a very different temporal evolution of the tax rates. These data can be compared to those from non-financial corporations, which also include cooperatives (leaving out of the study insurers, credit institutions and collective investment undertakings). In regard to this point, it should be noted that non-financial corporations include both large companies and those labelled as small. Taking this into account, it can be seen that the full tax rate decreased from 31.5% in 2006 to 23.7% in 2017. In turn, the effective tax rate for the same period ranged from 23.1% to 21.8%. This shows a reduction of 7.8 and 1.3 percentage points over these years, which means that while the full tax rate was further reduced in cooperatives, the effective tax rate decreased more intensively in non-financial corporations. Even so, this result must be taken with due caution, given the high heterogeneity of non-financial corporations noted above.

Finally, the effects of the tax benefits of cooperatives through the Tax Benefit Budget (TBB) could be raised. This tool is very useful for knowing what the Central Administration stops entering (Vaquero, 2017). However, it is difficult to draw clear conclusions having only the bonus budget, without any other disaggregation beyond the heading 'particularly protected cooperatives'. Moreover, the erratic behaviour of the TBB does not allow results to be obtained from its endowment (Navarro, 2014). Figure 6 shows the evolution of the tax benefit budget for the period 2009–2017 in the concept of specially protected cooperative bonus.<sup>5</sup> The figures point to the aforementioned erratic behaviour, whereas in 2009 the allocation was €51.5 million, rising to €18.7 million in 2010, falling again in 2012 to €11.5 million, rising to €21.4 million in 2013, and falling in 2014 to €15.4 million. In 2015 it is reduced again to €14.9 and from this moment it is rebounded to €20.7 million in 2016 and €27.6 million in 2017.

#### 4. Fiscal recommendations to improve the tax treatment of cooperatives in Spain

In the light of the previous analysis, it is possible to identify a set of recommendations for improving the tax treatment of cooperatives, as set out below:

First. As a preliminary consideration, it is worth reflecting on the theoretical goodness of the division of the taxable base of cooperative societies. As has been pointed out, the cooperative and non-cooperative results are allocated to undistributable funds (MR and ATR), which means in essence a limitation of assets that becomes particularly visible when the cooperative is wound up since these funds cannot be distributed among their partners. A question arises, in practice, as to whether the fact that these funds are reduced as tax-deductible expenditure is a real tax incentive or a simple technical adjustment to identify the cooperative's real ability to contribute. Moreover, since these funds end up reverting to society, the promotion of sustainable and people-friendly economic activity should be substantially encouraged, which does not seem

<sup>5</sup> See the report on the TBB of the Ministry of Finance (2009–2017).

to occur. In other words, the subjection of non-cooperative and cooperative results to the CIT means, in practice, a double penalty on an activity that should, in fact, be particularly encouraged. However, it should be noted that the best tax treatment for cooperative results over non-cooperative ones is currently a five-point reduction for non-credit cooperatives. This may not offset the cost of the additional obligations that this differentiation implies from the point of view of its accounting and justification.

Second. Cooperatives have limits when distributing surpluses or rewarding workers who do not have other entities. Something similar can be said of the ATR, which is a clear social obligation for cooperatives. Thus, compensation through tax benefits could contribute to alleviating this situation by mitigating this fiscal obligation.

Third. As has been pointed out, the tax rate to be applied in cooperatives is lower than that applicable to other entities. In recent years, however, this advantage has been reduced by the continued reduction in the rate of taxation under the general scheme. In other words, the theoretical advantage for cooperatives has been undermined, which might explain the significant decrease in their number during the economic crisis and the lack of dynamism since the recovery. It may, therefore, be advisable to consider reducing the tax rates for cooperatives to improve the treatment of cooperatives in relation to the general scheme. This would recover the initial advantage, a very important issue in promoting this type of organization. And, as was pointed out in the first of the recommendations, it is possible that at present, due to the small difference in tax rates, it may not compensate as it did years ago.

Fourth. It would be advisable to extrapolate those benefits that are potentially usable by small enterprises to cooperatives. We are referring to the reduction by tax equalization fund (which allows compensation to be advanced from future negative tax bases). The current wording of the rule prevents cooperatives from doing so, except in the case of cooperatives that are taxed at the general rate and therefore cannot benefit from the tax advantages granted to protected and specially protected cooperatives. At the moment, if a cooperative wish to benefit from either of the above two tax advantages, it must cease being a fiscally protected cooperative.

Fifth. The last major change in the tax situation for cooperatives is clearly dated since for more than three decades there have been no significant changes in the fiscal treatment of a business model that can contribute to sustainable economic development. If we compare the current fiscal situation with that of the early 1990s, the tax advantages for cooperatives have been very limited, except in the case of small businesses, in which case they can benefit from its advantages except for the tax equalization fund.

In the same vein, it does not seem very consistent that the regulations governing the tax treatment of cooperatives in Spain are only three decades old when there have been three major reforms to the CIT. It is clearly time to bet on a significant change in the tax treatment of cooperatives. This would not only make it possible to adjust the taxation of cooperatives to the current situation but would also increase the attractiveness of this business model, whose growth and expansion will allow progress towards sustainable economic development within a framework of greater social and territorial cohesion.

In summary, some arguments can be put forward to justify the special tax treatment of cooperatives: firstly, the activity usually carried out by such entities; secondly, the role of the members and workers in the aims established for the creation of the cooperative; thirdly, the special rules governing its operation; fourthly, the reduction in the capacity to pay, which is often required in such undertakings; and lastly, the need to promote cooperatives from the public point of view, as referred to in Article 129 of the EU Treaty, which seeks to enhance workers' participation in enterprises and their access to the means of production. As previously

mentioned, it is shocking to note that the fiscal framework for cooperatives is clearly dated, despite the importance of the cooperative phenomenon in Spain. Therefore, it would be necessary to undertake a thorough updating of the LTRC. This reform should consider some of the restrictions that cooperatives have, which undoubtedly condition the usefulness and effectiveness of the theoretical tax advantages that they enjoy. A better design of tax benefits could be justified to the extent that cooperatives are a type of entity aimed at achieving certain economic and social policy objectives. Therefore, if other actions with similar objectives enjoy tax advantages, there is no reason not to extend them to cooperatives.

Finally, in an economic model concerned with sustainable development, cooperatives are an interesting tool to develop – hence the desirability of improving the tax performance of such entities. It should also be taken into account that cooperatives aim to maximize value for members (whether it be income, work, service costs, etc.). While it is true that the accounting benefits of cooperatives are not high, they generate a significant social value in relation to the SDGs.

## Appendix A. Supplementary data

Supplementary material related to this article can be found, in the online version, at doi:<https://doi.org/10.1016/j.iedeen.2020.08.001>.

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